

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

After amending the claims as set forth above, claims 1-33 are now pending in this application.

Claims 1 and 16-29 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, with regard to claims 1 and 16, the Examiner stated that the statement "that particular license server *did not have* a sufficient number of allocations ..." lacked antecedent basis with respect to the past tense language in the claims. In response, claims 1 and 16 are amended herein to remove the past tense reference.

The Examiner stated that the preambles of claims 17-29 are unclear with regard to how a step can include another step. Applicant believes that the original versions of those claims are sufficiently clear (because more general steps often do include specific sub-steps: for example, the general step of launching a software program can include more specific sub-steps of (1) inserting a disc into a disc-drive and (2) opening a program file stored on the disc). However, in an effort to expedite the prosecution of the application, claims 17-29 are amended herein to remove the reference to "step" or "steps" from the preambles of those claims.

It is believed that claims 1 and 16-29, as amended herein, comply with the requirements of 35 U.S.C. 112, second paragraph. Accordingly, the rejection of those claims is respectfully traversed.

Claims 1, 16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,189,146 to Misra et al. (hereinafter "Misra"). Claims 2-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra in view of U.S. Patent No. 5,752,041 to Fosdick (hereinafter "Fosdick") and U.S. Patent No. 5,950,214 to Rivette et al. (hereinafter "Rivette"). Claims 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra in view of Fosdick. These rejections are respectfully traversed in view of the claims as amended herein.

Independent claim 1 is directed to a system for balancing a distribution of allocations for protected software over a communication network according to a license policy. The claimed system comprises “a pool of license servers coupled to the communication network, each license server in the pool is programmed for managing a distribution of allocations for at least one client computer coupled to the communication network to use the protected software.” The “pool of license servers including a current leader server programmed for updating the distribution of allocations to add at least one additional allocation to a particular license server if that particular license server has an insufficient number of allocations.”

Thus, because the current leader server is one of servers in the pool, the current leader server is programmed for managing a distribution of allocations for at least one client computer. In addition, because the current leader server has a “leader” role, it also updates the distribution of allocations to add at least one allocation to a license server that has insufficient allocations. As a result, the client computers can be spread out among all of the servers in the pool in an efficient manner since the leader server can also make allocations to at least some of the client computers. Also, the administration of the license system is simplified by having a current leader server since only one server is required to maintain a record of the allocations of the other servers.

None of the prior art of record describes or suggests a system in which each license server in the pool of license servers is programmed for managing a distribution of allocations for at least one client computer and, wherein the pool includes the current leader server for adding an allocation to a license server. In other words, none of the prior art of record describes or suggests a leader server that both (1) manages distribution of allocations for at least one client computer and (2) also provides an updating role of adding an allocation to a license server that has insufficient allocations. Accordingly, it is submitted that claim 1, as amended herein, is patentably distinguished over the prior art of record. Similar comments apply to independent method claim 16.

In citing the Misra patent, the Examiner apparently equates Misra’s “license clearinghouse” (item 22 in Fig. 1) as a license server that updates the distribution of licenses by adding at least one additional license to a particular license server. However, the “license

clearinghouse” 22 is NOT a license server in a pool of servers. Rather, it is a central location (a “clearinghouse”) from which license servers (such as license server 28 in Fig. 1) may obtain additional licenses for distribution to clients. The license clearinghouse 22, itself, does not distribute licenses to clients or manage licenses for clients. Thus, the present invention is distinguished from the Misra patent, because the claims require the current leader server to be one of the license servers in the pool of servers, where each server in the pool is programmed to manage a distribution of allocations for at least one client computer (and the leader server is not just a central license server that only distributes licenses to other license servers for re-distribution to clients).

Neither the Fosdick nor the Rivette patents address the above-noted deficiency of the Misra patent. Neither of those references teach or suggest a current leader server among a pool of servers, where the current leader server manages the distribution of allocations to client computers and provides the role of adding an allocation to a server that has insufficient allocations. Therefore, independent claims 1 and 16, as amended, are neither disclosed nor suggested by the cited prior art and, hence, are believed to be allowable. Because they depend from claim 1 or 16, directly or indirectly, claims 2-15 and 17-29 are also believed to be allowable at least for reasons as discussed above with respect to claims 1 and 16.

New claims 30 and 33 are added to further protect the present invention. Those claims are believed to be allowable over the prior art of record, at least for reasons as discussed above with respect to their parent claims 1 and 16 and for further reasons as apparent from the language of the claims.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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